

Kohn, Tonnya K.

From: Wellman, Elizabeth
Sent: Friday, September 3, 2021 4:04 PM
To: Schottenfeld, Joseph Rostain
Cc: McCarthy Wallace, Janette; Ashton, Anthony; Tiku, Martina; brendacmurph@gmail.com; Oveta Glover; Bailey, Karama; McCurdy, Robert L.
Subject: RE: NAACP housing navigator program Public Index scraping
Attachments: RequestforBulkorCompiledData (2).docx

Mr. Schottenfeld,

For clarification, the South Carolina Judicial Branch is not clear on the data you are requesting. Data requests are subject to [Rule 610, SCACR](#). Attached is the form, which outlines the process. Please let me know if you have questions.

Respectfully,

Y. Elizabeth Wellman
Staff Attorney
South Carolina Court Administration
South Carolina Judicial Branch
1220 Senate Street, Suite 200
Columbia, SC 29201-3747
Office: (803) 734-1800
Direct: (803) 734-1817
Fax: (803) 734-0269

From: Schottenfeld, Joseph Rostain <jschottenfeld@naacpnet.org>
Sent: Thursday, August 26, 2021 6:29 PM
To: Wellman, Elizabeth <ewellman@sccourts.org>
Cc: McCarthy Wallace, Janette <jlouard@naacpnet.org>; Ashton, Anthony <aashton@naacpnet.org>; Tiku, Martina <mtiku@naacpnet.org>; brendacmurph@gmail.com; Oveta Glover <ovetasimms@hotmail.com>; Bailey, Karama <kbailey@sccourts.org>; McCurdy, Robert L. <RMcCurdy@sccourts.org>
Subject: Re: NAACP housing navigator program Public Index scraping

***** EXTERNAL EMAIL:** This email originated from outside the organization. Please exercise caution before clicking any links or opening attachments. ***

Thank you, Attorney Wellman. I appreciate that you took the time to discuss your views with me. From our discussion, I understand that you believe that there is no technical avenue through which we could scrape the data without overly straining the servers that support the Public Index. From your statements to me, I also understand that your response is unequivocal and that further discussion over technical means or capacity would not be productive.

Should we pursue litigation, we would of course properly serve all defendants.

Thank you again.

Joe

--

Joe Schottenfeld
Assistant General Counsel
NAACP Office of the General Counsel

(203) 444-9577

From: Wellman, Elizabeth <ewellman@sccourts.org>

Date: Thursday, August 26, 2021 at 4:42 PM

To: Schottenfeld, Joseph Rostain <jschottenfeld@naacpnet.org>

Cc: McCarthy Wallace, Janette <jlouard@naacpnet.org>, Ashton, Anthony <aashton@naacpnet.org>, Tiku, Martina <mtiku@naacpnet.org>, brendacmurph@gmail.com <brendacmurph@gmail.com>, Oveta Glover <ovetasimms@hotmail.com>, Bailey, Karama <kbailey@sccourts.org>, McCurdy, Robert L. <RMcCurdy@sccourts.org>

Subject: RE: NAACP housing navigator program Public Index scraping

Good afternoon,

Thank you for speaking with me today. It is Court Administration's position that data scraping is not protected under the First Amendment. If anyone has any further questions please call me at: (803) 734-1817.

If any litigation is filed, please send me an email and also notify the Attorney General (they represent Court Administration in litigation).

Respectfully,

Y. Elizabeth Wellman
Staff Attorney
South Carolina Court Administration
South Carolina Judicial Branch
1220 Senate Street, Suite 200
Columbia, SC 29201-3747
Office: (803) 734-1800
Direct: (803) 734-1817
Fax: (803) 734-0269

From: Wellman, Elizabeth

Sent: Thursday, August 26, 2021 4:48 PM

To: 'Schottenfeld, Joseph Rostain' <jschottenfeld@naacpnet.org>

Cc: 'McCarthy Wallace, Janette' <jlouard@naacpnet.org>; 'Ashton, Anthony' <aashton@naacpnet.org>; 'Tiku, Martina' <mtiku@naacpnet.org>; 'brendacmurph@gmail.com' <brendacmurph@gmail.com>; 'Oveta Glover' <ovetasimms@hotmail.com>; Bailey, Karama <kbailey@sccourts.org>; McCurdy, Robert L. <RMcCurdy@sccourts.org>

Subject: RE: NAACP housing navigator program Public Index scraping

Mr. Schottenfeld,

Your voicemail is full (Number 203-444-9577). I tried the number on the letterhead, but that didn't work either.

Please give me a call at your convenience tomorrow at (803) 734-1817.

Respectfully,

Y. Elizabeth Wellman
Staff Attorney
South Carolina Court Administration
South Carolina Judicial Branch
1220 Senate Street, Suite 200
Columbia, SC 29201-3747
Office: (803) 734-1800
Direct: (803) 734-1817
Fax: (803) 734-0269

From: Kohn, Tonnya K. <tkohn@sccourts.org>
Sent: Thursday, August 26, 2021 4:31 PM
To: Schottenfeld, Joseph Rostain <jschottenfeld@naacpnet.org>
Cc: McCarthy Wallace, Janette <jlouard@naacpnet.org>; Ashton, Anthony <aashton@naacpnet.org>; Tiku, Martina <mtiku@naacpnet.org>; brendacmurph@gmail.com; Oveta Glover <ovetasimms@hotmail.com>; Bailey, Karama <kbailey@sccourts.org>; Wellman, Elizabeth <ewellman@sccourts.org>; McCurdy, Robert L. <RMcCurdy@sccourts.org>
Subject: RE: NAACP housing navigator program Public Index scraping

Mr. Schottenfeld,

Elizabeth Wellman, an attorney in our Division of Court Administration, oversees requests for data from the South Carolina Judicial Branch. Please reach out to her with your request. I have copied her on this email.

Tonnya K. Kohn
State Court Administrator
South Carolina Judicial Branch * Court Administration
1220 Senate St., Suite 200 Columbia, SC 29201
Office: (803) 734-1800 Email: tkohn@sccourts.org
Website: www.sccourts.org/

From: Schottenfeld, Joseph Rostain <jschottenfeld@naacpnet.org>
Sent: Thursday, August 26, 2021 10:42 AM
To: Kohn, Tonnya K. <tkohn@sccourts.org>
Cc: McCarthy Wallace, Janette <jlouard@naacpnet.org>; Ashton, Anthony <aashton@naacpnet.org>; Tiku, Martina <mtiku@naacpnet.org>; brendacmurph@gmail.com; Oveta Glover <ovetasimms@hotmail.com>; Bailey, Karama <kbailey@sccourts.org>
Subject: Re: NAACP housing navigator program Public Index scraping

***** EXTERNAL EMAIL:** This email originated from outside the organization. Please exercise caution before clicking any links or opening attachments. ***

Dear Ms. Kohn,

We wanted to check in briefly—as mentioned in our August 6 letter, we plan to begin gathering data soon. Please let us know if you have any concerns. We're happy to discuss with you and others.

Thank you so much.

Joe

From: Kohn, Tonnya K. <tkohn@sccourts.org>
Date: Wednesday, August 11, 2021 at 12:44 PM
To: Schottenfeld, Joseph Rostain <jschottenfeld@naacpnet.org>
Cc: McCarthy Wallace, Janette <jlouard@naacpnet.org>, Ashton, Anthony <aashton@naacpnet.org>, Tiku, Martina <mtiku@naacpnet.org>, brendacmurph@gmail.com <brendacmurph@gmail.com>, Oveta Glover <ovetasimms@hotmail.com>, Bailey, Karama <kbailey@sccourts.org>
Subject: RE: NAACP housing navigator program Public Index scraping

Mr. Schottenfeld:

We have received your email and will respond soon.

Tonnya K. Kohn
State Court Administrator

South Carolina Judicial Branch * Court Administration
1220 Senate St., Suite 200 Columbia, SC 29201
Office: (803) 734-1800 Email: tkohn@sccourts.org
Website: www.sccourts.org/

From: Schottenfeld, Joseph Rostain <jschottenfeld@naacpnet.org>
Sent: Friday, August 6, 2021 9:15 AM
To: Kohn, Tonnya K. <tkohn@sccourts.org>
Cc: McCarthy Wallace, Janette <jlouard@naacpnet.org>; Ashton, Anthony <aashton@naacpnet.org>; Tiku, Martina <mtiku@naacpnet.org>; brendacmurph@gmail.com; Oveta Glover <ovetasimms@hotmail.com>; Bailey, Karama <kbailey@sccourts.org>
Subject: NAACP housing navigator program Public Index scraping

***** EXTERNAL EMAIL:** This email originated from outside the organization. Please exercise caution before clicking any links or opening attachments. ***

Dear Ms. Kohn,

I hope you're well. As you may be aware, our new housing navigator program would like to scrape data from the Public Index so as to conduct outreach to and advocacy on behalf of tenants facing eviction. Based on First Amendment protections, we believe the Index's terms of service's prohibition on scraping would be unlawful if applied to bar our program's intended conduct. Please see the attached letter for further information. We look forward to discussing at your earliest convenience.

Thank you!

All the best,
Joe

--

Joe Schottenfeld
Assistant General Counsel
NAACP Office of the General Counsel

(203) 444-9577



Joseph Rostain Schottenfeld

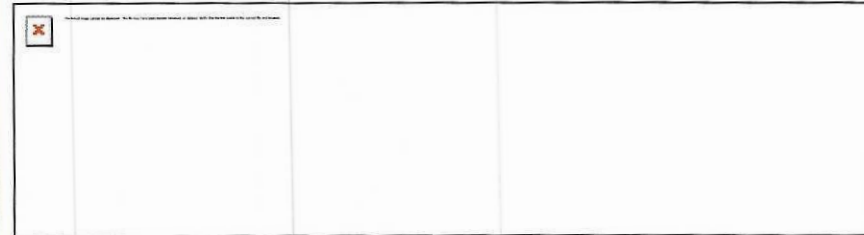
Assistant General Counsel

Legal

jschottenfeld@naacpnet.org

NAACP | Empowerment Programs

National Headquarters • 4805 Mount Hope Drive • Baltimore MD 21215



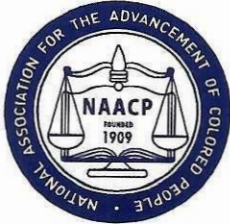
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**SOUTH CAROLINA STATE CONFERENCE**  
NATIONAL ASSOCIATION FOR THE ADVANCEMENT OF COLORED PEOPLE  
P.O. BOX 1148 • COLUMBIA, SC 29202  
PHONE (803) 754-4584 • FAX (803) 754-5457  
[www.sчнаacp.org](http://www.sчнаacp.org)

August 5, 2021

**VIA U.S. MAIL AND E-MAIL**

Tonnya K. Kohn  
State Court Administration  
Calhoun Building  
1220 Senate Street, Suite 200  
Columbia, South Carolina 29201

**RE: Scraping and the S.C. Public Index's Terms of Service**

Dear Ms. Kohn,

We write on behalf of the South Carolina NAACP State Conference ("State Conference") and the Columbia Branch NAACP ("Branch") to clarify the State Conference and Branch's right to use a data scraper to gather information from South Carolina's Public Index. Numerous court systems around the country permit advocates and researchers to obtain public-docket information through data scraping without suffering any adverse consequences. The terms of service of South Carolina's Public Index, however, expressly prohibit using "site data scraper[s] or any similar software" when accessing the Public Index. We believe that this prohibition is unlawful as applied to the State Conference and Branch's proposed activity.

The State Conference and the Branch intend to use automated scraping to further the research and advocacy efforts of their newly launched Housing Navigator Program. At a time when evictions are poised to spike dramatically, gathering the public data contained in the Public Index will allow the Navigator Program to identify individual tenants who would benefit from free eviction-prevention services and recognize and respond to community-wide patterns of eviction filings. The data will enable the Navigator Program to provide these tenants with critical information at a crucial moment and, over time, bolster systemic research and advocacy efforts.

To the extent that the terms of service prohibit the State Conference and Branch's proposed conduct, that prohibition would likely run afoul of the First Amendment. Access to court records is subject to especially robust First Amendment protections, because, in general, "the right of access" to court records "plays a particularly significant role in the functioning of the judicial process and the government as a whole": "[I]n the broadest terms, public access" allows "the public to participate in and serve as a check on the judicial process." *Globe Newspaper Co. v. Superior Court*, 457 U.S. 596, 606 (1982); *Rushford v. New Yorker Magazine, Inc.*, 846 F.2d 249, 253 (4th Cir. 1988) (extending *Globe Newspaper's* right-of-access First Amendment protections to documents filed in a civil case).

The State Conference and Branch's intended efforts fall within these First Amendment protections. Just as a journalist ensures fairness by reporting on and publicizing court proceedings, the Navigator Program will access court records through data scraping to

“participate in” eviction proceedings by conducting direct outreach and advocacy to ensure tenants are able to exercise their rights. *See, e.g., N.A.A.C.P. v. Button*, 371 U.S. 415, 429 (1963) (establishing that the First Amendment protects advocacy efforts and litigation); *In re Primus*, 436 U.S. 412 (1978) (concluding that nonprofit groups’ solicitation for the purposes of litigation is protected activity). As a result, the Public Index’s denial of access would stand only if it “serves an important governmental interest and . . . there is no less restrictive way to serve that governmental interest.” *Rushford*, 846 F.2d at 253.

There is no obvious rationale for the blanket ban on web scraping. As noted, all of the information in the Public Index is *already* accessible to the public. Scraping the data would not cause the Navigators Program to unearth new, private information about any person; it would merely let the Navigator Program use public information to reach out to certain tenants and redress systemic eviction issues.<sup>1</sup> Nor would the use of a web-scraping program inevitably burden the Public Index’s servers. There are technical solutions available that would allow the Navigator Program automatically to calibrate when and how to access the data so as not to strain the servers that support the Public Index.

We are confident that we can resolve this matter in a manner that will allow our State Conference and Branch to start gathering the requisite data and minimize any concerns you may have about personal information or server capacity. If you have any objections to the State Conference and Branch’s use of a web scraping program to obtain information from public dockets, please let us know by August 26, 2021 so that we can discuss your concerns. We look forward to hearing from you and working toward a swift resolution of this issue.

Sincerely,

Joe Schottenfeld  
Assistant General Counsel,  
NAACP

Martina Tiku  
Equal Justice Works Fellow  
NAACP

CC: Brenda Murphy, SC NAACP State Conference President  
Oveta Glover, Columbia Branch NAACP President

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<sup>1</sup> Additionally, the Navigators Program will in no way be using the data for “commercial solicitation,” which is barred by South Carolina’s Family Privacy Protection Act. S.C. Code Ann. § 30-2-50.





# South Carolina Court Administration

South Carolina Supreme Court  
Columbia, South Carolina

1220 SENATE STREET, SUITE 200  
COLUMBIA, SOUTH CAROLINA 29201  
TELEPHONE: (803) 734-1800  
FAX: (803) 734-0269  
EMAIL: [RULE610@sccourts.org](mailto:RULE610@sccourts.org)

## INSTRUCTIONS FOR FORM 610 REQUEST FOR BULK DISTRIBUTION OF AND COMPILED INFORMATION FROM JUDICIAL RECORDS RULE 610, SCACR

The following practices and procedures are pursuant to the December 20, 2017, amendment of Rule 610, SCACR, which gave the Office of Court Administration the discretion to authorize bulk distribution of or compiled information from judicial records, if not sought for commercial purposes:

### I. Submitting a Request under Rule 610, SCACR

- All requestors for bulk distribution of and compiled information from judicial records must use form SCCA 610.
- The fully completed form should, preferably, be emailed to: [RULE610@sccourts.org](mailto:RULE610@sccourts.org). This allows the request to be processed as efficiently as possible.
- If email is unavailable, mail to:

South Carolina Court Administration  
Attn: Rule 610 Request  
1220 Senate Street, Suite 200  
Columbia, South Carolina 29201

### II. Criteria for Determination pursuant to Rule 610, SCACR

- If sought for any commercial purpose, the request must be denied.
- For all other requests, the factors to be considered include:
  1. The resources available to compile the information.
  2. Whether a substantial public interest will be served through significant scholarly, governmental, journalistic, research, evaluation, or statistical purposes.
  3. The identity of specific individuals is ancillary to the request.



- A request may be denied on the basis that:
  1. The requestor may obtain the information using the search functions available to the public on websites maintained by the South Carolina Judicial Department or any court of this state.
  2. Fulfilling the request may interfere with normal Judicial Department operations (e.g., requests may be denied if the South Carolina Judicial Department does not routinely collect the requested information).
  3. The requested information contains confidential data or financial information that may not be provided.

I. Notification

- Once a determination has been reached, the Action on Request contained in form SCCA 610 will be emailed or, if requestor's email address is unknown, mailed to the requestor.
- The Action on Request page will state whether the request has been Approved, Partially Approved, or Denied. If Partially Approved or Denied, a reason will be provided.

II. Disclaimer

- SCJD is not by law the custodian of court records. Because SCJD receives information as a third party, SCJD cannot guarantee the accuracy of the information contained in Rule 610 reports. While SCJD strives to keep the reports as accurate as possible, the data contained in Rule 610 reports are reliant on information maintained at the local level. Any clarification of data contained in Rule 610 reports should be directed to the pertinent local official.

**RULE 610**  
**BULK DISTRIBUTION OF AND COMPILED**  
**INFORMATION FROM JUDICIAL RECORDS**

**(a)** For the purpose of this rule:

**(1)** Bulk distribution is defined as a distribution of all, or a significant subset, of the information in judicial records, as is and without modification or compilation.

**(2)** Compiled information is defined as information that is derived from the selection, aggregation or reformulation of the information from more than one individual judicial record.

**(3)** Judicial records shall include all records maintained by any court, commission, board, committee, office or other entity within the South Carolina Judicial Department, regardless of whether that entity is funded in whole or part by state or local funds.

**(b)** The South Carolina Judicial Department shall not provide bulk distribution of or compiled information from judicial records where those records are sought for any commercial purpose.

**(c)** Unless authorized by the Office of Court Administration, a bulk distribution of judicial records will not be made.

**(d)** Unless authorized by the Office of Court Administration, compiled information from judicial records will not be provided. This restriction shall not apply to:

**(1)** Compiled information that may be contained in statistical or other reports that have been previously released to the general public.

**(2)** Compiled information that can be obtained by a person using the search functions available to the public on websites maintained by the South Carolina Judicial Department or any court of this state.

**(e)** The Office of Court Administration may authorize bulk distribution of or compiled information from judicial records if it determines, in its discretion, that the resources are available to compile the information; the substantial public interest will be served through significant scholarly, governmental, journalistic, research, evaluation, or statistical purposes; and the identity of specific individuals is ancillary to the request. The Office of Court Administration shall determine whether to provide the information as follows:

**(1)** All requests shall be made to the Office of Court Administration. The requestor must:

**(i)** identify the specific bulk records or compiled information sought, and identify the court or courts from which the records are sought;



(ii) set forth the substantial public interest the requestor has for the scholarly, governmental, journalistic, research, evaluation, or statistical purposes as it relates to the requested information;

(iii) describe how fulfilling the request is an appropriate use of public resources;

(iv) indicate whether the requestor is willing to pay a fee for the search, retrieval, or redaction of records should redaction be required;

(v) explain how the bulk records or compiled information will be stored and secured and agree the bulk records or the compiled information will not be sold and will not be used for any commercial purpose or for the purpose of solicitation.

(2) A request may be denied on the basis that:

(i) the requestor may obtain the information using the search functions available to the public on websites maintained by the South Carolina Judicial Department or any court of this state;

(ii) fulfilling the request may interfere with normal Judicial Department operations;

(iii) the requested information contains confidential data or financial information that may not be provided.

(3) If providing the data will require the expenditure of more than one hour of personnel time, including that of any vendor or contractor, the Office of Court Administration may charge the requestor the actual cost of that personnel time. If the estimate costs exceed \$100, the requestor may be required to pay that fee in advance.

(4) Information may be provided without charge or at a reduced charge if it is determined that a waiver or reduction of fees primarily benefits the general public.

Amended by Order dated December 20, 2017.



# South Carolina Court Administration

South Carolina Supreme Court  
Columbia, South Carolina

1220 SENATE STREET, SUITE 200  
COLUMBIA, SOUTH CAROLINA 29201  
TELEPHONE: (803) 734-1800  
FAX: (803) 734-0269  
EMAIL: [RULE610@sccourts.org](mailto:RULE610@sccourts.org)

## FORM 610

### REQUEST FOR BULK DISTRIBUTION OF AND COMPILED INFORMATION FROM JUDICIAL RECORDS

#### RULE 610, SCACR

(SHALL NOT BE USED FOR ANY COMMERCIAL PURPOSE)  
EMAIL COMPLETED FORM TO [RULE610@SCCOURTS.ORG](mailto:RULE610@SCCOURTS.ORG)

- I. Requestor is: ☐ an individual ☐ an organization  
Requestor's name: \_\_\_\_\_  
Address: \_\_\_\_\_  
Contact person: \_\_\_\_\_  
Title: \_\_\_\_\_  
Telephone: \_\_\_\_\_  
Email: \_\_\_\_\_
- II. List all known business, nonprofit, governmental, or other organizations' names which will have access to, participate in the use of, or will be disseminated the requested information:  
\_\_\_\_\_
- III. Identify the Court, including location, which maintains the Record (e.g. Court of Common Pleas Statewide or Court of Common Pleas in Abbeville County):  
\_\_\_\_\_
- IV. Identify the bulk or complied information sought, including specific data points within the bulk or complied information (e.g. Case Number, File Date, Nature of Action Code, Disposition Date):  
\_\_\_\_\_
- V. Date range requested? (e.g., 7/1/16 - 6/30/17)  
\_\_\_\_\_



- VI. What is the purpose of the request? (Explain in detail, to clarify all necessary data points)
- \_\_\_\_\_
- VII. What substantial public interest will be served through the scholarly, governmental, journalistic, research, evaluation, or statistical purposes use of the requested information? (Explain in detail)
- \_\_\_\_\_
- VIII. Describe how fulfilling the request is an appropriate use of public resources:
- \_\_\_\_\_
- IX. Requestor is ☐ is NOT ☐  
willing to pay an amount determined to be the actual cost of personnel time, including that of any vendor or contractor, if providing the data will require more than one hour of personnel time. If not, why?
- \_\_\_\_\_
- X. Explain how the bulk or compiled information will be stored and secured:
- \_\_\_\_\_
- XI. Requestor agrees ☐  
the bulk records or the compiled information will not be sold and will not be used for any commercial purpose or used for the purpose of solicitation.

By signing this request, I represent that I am the requestor or authorized to do so on behalf of requestor, and affirm under the penalties for perjury, contempt, or any other actions or penalties as provided by law that the requested information will not be sold, used for any commercial purposes, or for the purpose of solicitation.

Signature: \_\_\_\_\_

Printed Name: \_\_\_\_\_

Title: \_\_\_\_\_

Organization: \_\_\_\_\_

Date: \_\_\_\_\_

**EMAIL COMPLETED FORM TO RULE610@SCCOURTS.ORG**

**REQUEST FOR BULK DISTRIBUTION OF AND COMPILED  
INFORMATION FROM JUDICIAL RECORDS  
RULE 610, SCACR**

**ACTION ON REQUEST**

**TO BE COMPLETED BY SOUTH CAROLINA COURT ADMINISTRATION**

**Request Received by South Carolina Court Administration on: \_\_\_\_\_**

**Request is:**    ☐ **Approved**                      ☐ **Partially Approved**                      ☐ **Denied**

**Denial Reason:**

- ☐ **The requestor may obtain the information using the search functions available to the public on websites maintained by the South Carolina Judicial Department or any court of this state.**
- ☐ **Fulfilling the request will interfere with normal Judicial Department operations.**
- ☐ **The requested information contains confidential data or financial information that may not be provided.**
- ☐ **\_\_\_\_\_**

**If Approved or Partially Approved, the requested information will be provided within ten (10) business days, unless otherwise stated.**

**Request Processed on: \_\_\_\_\_**  
**Request Processed by: \_\_\_\_\_**  
**Title: \_\_\_\_\_**